

## Message Text

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TO AMEMBASSY BRUSSELS PRIORITY

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USMISSION GENEVA PRIORITY

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C O N F I D E N T I A L STATE 233088

E.O. 11652: GDS

TAGS: WIPO, AORG

SUBJECT: POSSIBLE CUBAN INVITATION TO HOLD DIPLOMATIC  
CONFERENCE IN HAVANA FOR REVISION OF PARIS INDUSTRIAL  
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PROPERTY CONVENTION

REFS: 1) THE HAGUE 4670; 2) GENEVA 7289

1. CURRENTLY MEMBER STATES OF THE WORLD-WIDE PARIS INDUSTRIAL PROPERTY CONVENTION (KNOWN COLLECTIVELY AS THE PARIS UNION) ARE CONSIDERING A POSSIBLE REVISION OF THE CONVENTION TO PROVIDE EXCEPTIONS AND PREFERENTIAL TREATMENT FOR LDCS REGARDING INDUSTRIAL PROPERTY (PATENTS AND TRADE-MARKS). THE U.S. AND CUBA ARE PARTIES TO THIS CONVENTION.

2. THE TRIENNIAL ADMINISTRATIVE MEETINGS (SEPTEMBER 27-OCTOBER 5) OF THE WORLD INTELLECTUAL PROPERTY ORGANIZATION (WIPO), WHICH ADMINISTERS THE PARIS CONVENTION, WILL CONSIDER, AMONG OTHER THINGS, THE TIME AND PLACE FOR THE DIPLOMATIC CONFERENCE TO REVISE THE PARIS CONVENTION. THE CONFERENCE WILL PROBABLY TAKE PLACE IN 1978. THE FEDERAL REPUBLIC OF GERMANY AND THE NETHERLANDS HAVE INFORMED US THAT THERE MAY BE A CUBAN INVITATION AT THE ADMINISTRATIVE MEETINGS TO HOLD THE CONFERENCE IN HAVANA. AS SET FORTH IN PARAGRAPH 7 BELOW, THE U.S. WILL VOTE AGAINST SUCH AN

INVITATION IF THERE IS A VOTE BUT WOULD PREFER TO DELAY ANY DECISION ON THE VENUE OF THE DIPLOMATIC CONFERENCE UNTIL THE WIPO ADMINISTRATIVE MEETINGS IN SEPTEMBER 1977.

3. SINCE THE BREAK IN DIPLOMATIC RELATIONS WITH CUBAN, THE U.S. HAS PARTICIPATED IN ONLY ONE UN-RELATED CONFERENCE HELD IN CUBA WHICH IT WAS ELIGIBLE TO ATTEND (A MEETING OF A COORDINATION GROUP OF THE UNESCO INTERGOVERNMENTAL OCEANOGRAPHIC COMMISSION IN JUNE 1972). RECENTLY, IN JUNE 1976, WE SUCCEEDED IN DELAYING FOR A SECOND TIME A DECISION ON A CUBAN INVITATION TO HOLD A MEETING OF THE GOVERNING COUNCIL OF THE UNITED NATIONS DEVELOPMENT PROGRAM (UNDP) IN HAVANA.

4. THE SUBJECT OF THE TIME AND PLACE FOR THE DIPLOMATIC CONFERENCE IS ON THE AGENDA OF THE PARIS UNION (AGENDA ITEM 9). THE RELEVANT DOCUMENT IS AB/VII/11. IN THIS DOCUMENT, THE WIPO DIRECTOR GENERAL NOTES THAT THE "DRAFT PROGRAM AND BUDGET FOR 1977 TO 1979" FOR WIPO (AB/VII/2) CONFIDENTIAL

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PROVIDES THAT A DIPLOMATIC CONFERENCE IS TO BE HELD IN "THE SECOND HALF OF 1977 OR EARLY IN 1978." HE FURTHER NOTES THAT THESE DATES MIGHT, IF NECESSARY, BE REVISED BY THE PARIS UNION EXECUTIVE COMMITTEE AT ITS ANNUAL MEETING IN SEPTEMBER 1977. AS TO THE PLACE OF THE DIPLOMATIC CONFERENCE, THE DIRECTOR GENERAL STATES THAT "IT REMAINS TO BE SEEN WHETHER A MEMBER COUNTRY OF THE PARIS UNION IS READY" TO HOST THE DIPLOMATIC CONFERENCE AND "TO ASSUME

THE EXPENSES" FOR THE CONFERENCE. THE DIRECTOR GENERAL INDICATES THAT IF SUCH AN INVITATION IS FORTHCOMING BEFORE OR DURING THE SEPTEMBER 1976 SESSION OF THE PARIS UNION ASSEMBLY, "A DECISION SHOULD BE MADE IN THAT SESSION ON ITS ACCEPTANCE." HOWEVER, IF SUCH AN INVITATION IS MADE AFTER THE SEPTEMBER 1976 SESSION, THE DIRECTOR GENERAL SUGGESTS THAT "THE MOST PRACTICAL SOLUTION WOULD SEEM TO BE FOR THE ASSEMBLY TO DELEGATE THE POWER OF DECISION TO THE PARIS UNION EXECUTIVE COMMITTEE."

5. AN IMPORTANT CONSIDERATION THAT MUST BE TAKEN INTO ACCOUNT IS THE FACT THAT THE U.S. APPROVED THE UNGA 7TH SPECIAL SESSION RESOLUTION (3362) AND THE UNCTAD IV RESOLUTION (88/IV) WHICH, INTER ALIA, CALL FOR REVISION OF THE "INTERNATIONAL CONVENTIONS" ON PATENTS AND TRADEMARKS AS THEY RELATE TO NEEDS OF LDCS, ESPECIALLY AS REGARDS TECHNOLOGY TRANSFER. THUS, A DECISION BY THE U.S. AT THE SEPTEMBER 1976 WIPO ADMINISTRATIVE MEETINGS NOT TO ATTEND THE CONFERENCE ON REVISION OF THE PARIS CONVENTION IN HAVANA COULD BE VIEWED AS INCONSISTENT WITH OUR POSITION ON THESE RESOLUTIONS, AND RAISE SERIOUS DOUBTS AMONG LDCS ABOUT OUR CONTINUING INTEREST TO FURTHER THEIR ECONOMIC DEVELOPMENT.

6. BECAUSE OF THIS CONSIDERATION, IT WOULD BE DESIRABLE FROM THE U.S. VIEWPOINT TO AVOID HAVING TO OPPOSE OPENLY AT THIS TIME AN INVITATION FROM CUBA TO HOLD A DIPLOMATIC CONFERENCE FOR THE PROPOSED REVISION OF THE PARIS CONVENTION TO MEET THE NEEDS OF LDCS. THE PROBLEM IS COMPOUNDED BY THE FACT THAT THE HEAD OF THE CUBAN PATENT OFFICE, J. RODRIGUEZ PADILLA, EMERGED AS THE SPOKESMAN FOR THE LDCS IN THE LAST PREPARATORY MEETING IN JUNE 1976. THE U.S. WILL NOT, IN ANY EVENT, ATTEND A MEETING IF IT IS HELD IN HAVANA.

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7. ACTION: EC POSTS: CONTACT APPROPRIATE OFFICIALS AND MAKE FOLLOWING POINTS:

A) U.S. WILL NOT REPEAT NOT ATTEND A DIPLOMATIC CONFERENCE IN HAVANA FOR REVISION OF THE PARIS CONVENTION. IF THERE IS A VOTE ON A CUBAN INVITATION AT THE SEPTEMBER 1976 WIPO MEETINGS, THE U.S. WILL VOTE AGAINST SUCH AN INVITATION.

B) THE U.S. BELIEVES IT WOULD BE DESIRABLE FOR THE PARIS UNION ASSEMBLY TO DELAY A DECISION ON BOTH THE TIME AND THE PLACE FOR THE DIPLOMATIC CONFERENCE BY DELEGATING THE POWER OF DECISION ON THESE MATTERS TO THE PARIS UNION EXECUTIVE COMMITTEE AT ITS SEPTEMBER 1977 MEETING. (SEE PARAGRAPH 4 ABOVE.)

C) TIME WOULD THUS BE GAINED TO EXPLORE THE POSSIBILITY OF ANOTHER VENUE EITHER AT THE WIPO HEADQUARTERS BUILDING IN GENEVA OR IN ANOTHER DEVELOPING COUNTRY.

8. GENEVA: CONTACT WIPO DIRECTOR GENERAL, DR. ARPAD BOGSCH, AND MAKE SAME POINTS AS IN PARAGRAPH 7 ABOVE. ALSO INFORM DIRECTOR GENERAL THAT USDEL WOULD LIKE TO DISCUSS MATTER INFORMALLY FURTHER AT WIPO ADMINISTRATIVE MEETINGS.

9. BERN: CONTACT APPROPRIATE SWISS OFFICIALS AND PAUL BRAENDLI, HEAD OF THE SWISS INTELLECTUAL PROPERTY OFFICE, AND MAKE SAME POINTS AS IN PARAGRAPH 7 ABOVE. ALSO INFORM BRAENDLI THAT USDEL WILL BE PREPARED TO DISCUSS MATTER FURTHER AT MEETING OF WESTERN DELEGATIONS, ON SEPTEMBER 27 AT 0900 IN GENEVA WHICH HAS BEEN CALLED BY THE SWISS AND WHICH HE WILL PROBABLY CHAIR. (WE HAVE NOTED THAT THE SITE OF THE PARIS REVISION DIPLOMATIC CONFERENCE IS ONE OF THE QUESTIONS TO BE DISCUSSED ACCORDING TO THE SWISS NOTE OF SEPTEMBER 9 WHICH WAS COMMUNICATED TO THE MISSION BY THE SWISS PERMANENT MISSION.) ROBINSON

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